



**SUBMISSION OF**  
**DECLARATION UNDER 37 CFR 1.132**  
**OF GARY L. HENDREN**

Due to application of Hendren et al. USP 4,886,578 in a rejection of the present claims, attached to this response is a Declaration of Gary L. Hendren, an inventor in USP 4,886,576.

This Declaration directly states:

That, for each disclosure of “fibrils” in U.S. Patent 4,886,578, I directly state that the purpose in use of fibrils was as a binder within the environment of the disclosure of this patent.

**STATEMENT IN OFFICE POSITION**  
**IS IN CLEAR ERROR**  
**IN THE TECHNOLOGY TO WHICH**  
**THIS INVENTION PERTAINS**

It is noted that paragraph 1.a in the introductory remarks in the Office action prior to the rejection under 35 USC 103(a) sets forth:

“While fibrils can be used as binders, it is the Examiner’s position that their use (sic) is not limited to be used only as a binder.”

While this statement may be true in an abstract sense, it is inapplicable in the present environment since the use of fibrils as a binder is present in (a) the present patent application (b) Hendren et al. USP 4,886,576 and (c) Tokarsky USP 4,698,267.

Also, taking issue with the above quoted wording from the Office rejection, by analogy, one can state that a liquid glue (such as a glue for bonding wood) need not be limited to use as a glue. One could solidify a block of glue and carve a statue from the glue. In such case, the glue would not be a glue in its normal meaning.

The point in this response that in all instances in this traversal of the Office rejection, the term “fibrils” denotes use as a “binder”. A non-use of the fibrils as a binder is not relevant in the ambient to which this technology pertains.

**REJECTION UNDER 35 USC 103(a)**

All claims under prosecution have been rejected under 35 USC 103(a) based on Hendren et al. (Hendren) USP 4,886,578 in view of Tokarsky USP 4,678,267.

The Office rejection summarizes the teachings of Hendren in the paragraph bridging pages 3 and 4 and includes reference to the part of use of “preferably... at least 35 wt % are MPD-I fibrils”.

Also, it is noted in reference to “at least 35 wt % MPD-I fibrils”, Hendren has added disclosure use a range of fibrils and use of aromatic polyamide fibrils on column 1, lines 62 to 66 as follows:

The process for making the board comprises the steps of:

- (a) forming a slurry by mixing 40-65 wt.% polytetra-fluoroethylene floc with 35-60 wt. % aromatic polyamide fibrils with water; (emphasis added)

Thus, this disclosure is even broader than the language present in the Office rejection. The Office position is that in regard to Hendren USP 4,886,576:

“However the reference fails to teach use of a binder.”

Obviously this quote is clearly incorrect as evidenced by the attached Hendren Declaration. This Declaration is from an inventor of the cited USP 4,886,578, hence is directly applicable to the disclosure and teachings of this patent. The Declaration states:

“That, for each disclosure of “fibrils” in U.S. Patent 4,886,578, I directly state that the purpose in use of fibrils was as a binder within the environment of the disclosure of this patent.”

Accordingly, to one of ordinary skill in the art to which these technology relates, the use of fibrils is as a binder.

The following discussion opposite Tokarsky is to provide a complete response to the Office rejection.

In the next to last paragraph of page 4 of the Office rejection it is stated:

“It is the Examiner’s position that fibrils as well as binder resins are suitable binders for the materials used by HENDREN as taught by TOKARSKY in the making of aramid papers above.”

An edited wording of this quote from the Office rejection is:

“It is the Examiner’s position that fibrils... are suitable binders... as taught by TOKARSKY in the making of aramid papers...”

Therefore, in view of the exact statement relied upon in the Office rejection, Tokarsky directly teaches and requires in his environment that the presence of fibrils denotes a binder.

The Office rejection in a discussion of Tokarsky does set forth the concentration of the amount of binder, namely:

“The reference teaches that when continuous papermaking processes are used, binder at less than 5 percent, by weight, of total solids provides inadequate effect and at more than 25 percent, by weight, of total solids is not generally retained by the fibers. (Column 3, lines 40-50)” (emphasis added)

Therefore, a logical conclusion from the above statement is that it would be wasteful to employ more than 25 weight percent binder since the binder would not be generally retained by the fibers.

The Office rejection sets forth the following conclusion in the combination of Hendren and Tokarsky:

“It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the heat resistant insulating material of HENDREN and provide with a resin binder with the motivation of facilitating the handling of the material during preparation as disclosed by TOKARSKY above. (emphasis added)

Therefore, a logical reading of Tokarsky is that to facilitate and handling, one would not employ a binder at more than 25 weight % since a greater amount “is not generally retained by the fibers.”

Yet the Office rejection relies upon the teachings of Tokarsky to modify Hendren. In answer, attention is respectfully directed to an earlier quoted section of Hendren on column 1, lines 62 to 66 as follows:

The process for making the board comprises the steps of:  
(a) forming a slurry by mixing 40-65 wt.% polytetra-fluoroethylene floc with 35-60 wt. % aromatic polyamide fibrils with water; (emphasis added)

Since the fibrils of Hendren represent a binder, the minimum binder concentration of Hendren is 35 weight % and the maximum practical concentration of binder in Tokarsky is 25 weight %. The closest comparison of the two publications is Hendren requires 10 weight % more binder than Tokarsky. Therefore, Tokarsky would not add additional binder "with the motivation of facilitating handling of the material" (stated in the Office rejection) since Hendren already requires more binder than Tokarsky would employ.

In summary, a Declaration under 37 CFR 1.112 of Gary L. Hendren directly refutes the Office position upon which the rejection under 35 USC 103(a) is premised. The fibrils of Hendren USP 4,886,578 represent a binder directly contrary to the Office position that this publication "fails to teach the use of a binder".

Reconsideration and withdrawal of the Office position is requested. A notice of allowance is solicited.

Respectfully submitted,



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Dated: November 5, 2004



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Confirmation No.: 4837

Jaime A. Ampuero Auza et al.

Docket No.: KP2310 US NA

Appln No.: 09/911,528

Art Unit: 1771

Filed: July 24, 2001

Examiner: N. Torres-Velazquez

For: **NONWOVEN MATERIAL FOR  
LOW FRICTION BEARING  
SURFACES**

**DECLARATION UNDER**

**37 CFR 1.132**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Gary L. Hendren, hereby state:

That I am an inventor in U.S. Patent No. 4,886,578.

That I have been asked whether in U.S. Patent 4,886,578 a disclosure to "fibrids" would denote that the "fibrids" act as a binder within the environment of the disclosure of this patent.

That, in answer, I note reference to "fibrids" in U.S. Patent 4,886,578 as follows:

- ABSTRACT, line 4 "aromatic polyamide fibrids"
- column 1, line 11 "aromatic polyamide fibrids"
- column 1, line 61 "at least 35 wt % are MPD-I fibrids"

- column 1, lines 65-66 "with 35-60 wt % aromatic polyamide fibrids with water"
- column 2, line 6 where "fibrids" refer to aromatic polyamide fibrous materials
- column 2, line 22 "MPD-I fibrids"
- column 2, line 57 "fibrids"
- column 3, line 14 "MPD-I fibrids"
- claim 3, line 3 "fibrids"
- claim 8, line 3 "fibrids"

That, for each disclosure of "fibrids" in U.S. Patent 4,886,578, I directly state that the purpose in use of fibrids was as a binder within the environment of the disclosure of this patent.

That I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



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GARY L. HENDREN

26 Oct 2004  
DATE